

## **REMARKS/ARGUMENTS**

Reconsideration and withdrawal of the rejections of the application are respectfully requested in view of the amendments and remarks herewith, which place the application into condition for allowance. The present amendment is being made to facilitate prosecution of the application.

### **I. STATUS OF THE CLAIMS AND FORMAL MATTERS**

Claims 1-6, 9-23, 25-44, and 46-52 are pending. Claims 7-8, 23, and 44 are hereby canceled. Claims 1, 18, 32, 51, and 52 are independent. Claims 1, 18, 23, 32, 44, 51, and 52 are hereby amended. Support for the amendment is found throughout the specification as originally filed.

No new matter has been introduced. It is submitted that these claims, as originally presented, were in full compliance with the requirements of 35 U.S.C. §112. Changes to claims are made simply for clarification and to round out the scope of protection to which Applicants are entitled.

### **II. SUPPORT FOR AMENDMENTS**

#### **§101 Rejection of claims 1-17**

Publ. App. par. [0019]: "The environment information server 105 is a network server system including one or more interconnected computer systems . . ."

#### **§§102 and 103 Rejections of claims 1-52**

Publ. App. par. [0013]:

“ . . . The environment information server includes a database storing environment information for each of the environments supported by the environment information server. The environment information for an environment indicates a name of the environment, a description of the environment, the status of the environment, network information for communicating with the environment, the current number of clients connected to the environment, and the maximum number of clients that are permitted to be connected to the environment.”

*See, also*, par. [0021].

### III. REJECTIONS UNDER 35 U.S.C. §101

Independent claim 1 and dependent claims 2-17 were rejected as allegedly directed to non-statutory subject matter.

Claim 1 has been amended to overcome the rejection. Publ. App. par. [0019].

### IV. REJECTIONS UNDER 35 U.S.C. §§102 AND 103

Claims 1-4, 9-20, and 25-51 were rejected under 35 U.S.C. §102(b) as allegedly anticipated by U.S. Patent App. Publ. No. 2002/0002074 of White et al. (“White”);

Claims 1-52 Claims were rejected under 35 U.S.C. §103(a) as allegedly unpatentable over U.S. Patent No. 6,152,824 to Rothschild, et al. (“Rothschild”) in view of White;

Claims 5-8, 21-24, and 42-45 were rejected under 35 U.S.C. §103(a) as allegedly unpatentable over White in view of Rothschild.

Applicants respectfully traverse these rejections.

Claim 1 is representative and recites, *inter alia*:

wherein the environment report comprises:

...  
information characterizing the one or more network environments selectable by the user for connection, the information characterizing each network including user count information that indicates the current number of clients connected to the environment and the maximum number of clients allowed to be connected to the environment." (Emphasis added)

The claimed invention generally relates to a network enabled device connecting to an information server before connecting to a network environment for the purpose of retrieving information on available networks in order to connect to the most desirable network. As such, the environment information server provides an environmental report on each network available to a client.

More specifically, claim 1 relates to an environment information server which periodically connects to available network environments for the purpose of updating an environment information database. Before a client system randomly attempts to connect to a network environment, the client system is able to send a request for available network environment information to the environment information server that has updated information on all the available network environments, and receive in return, a report comprising the updated information. The information regarding each of the one or more environments comprises the current number of users or clients connected to the environment and the maximum number of users or clients that are permitted to be connected to the environment. Publ. App. Par. [0021]. The client system can then make the best decision on which environment to connect.

The Office Action, at page 13, points to Rothschild, 9:10-22, for the above-recited feature of claim 1, alleging it is “inherent for room or game to have a max. # of players”). The Office Action errs in describing the recited feature of claim 1.

The feature of claim 1 is, more properly, “**the environment report comprises . . . the maximum number of clients allowed to be connected to the environment**.” That is, the feature is not that there exist a maximum number of clients allowed to be connected. The feature is providing the maximum number of clients in a report.

Applicants direct attention to *Ex Parte* James L. Martin, Jr., Appeal No. 2009-002734 at 8-9 (Bd. Pat. App. & Inter. July 16, 2010) wherein the Examiner attempted to use inherency to show obviousness of the claim feature, “displaying . . . database record organization characteristics in conjunction with location information”

The Appeals Board stated:

“[The Examiner] concludes that Cadot inherently discloses ‘*location information, e.g. tablespace XXX, describes the location of table directory, row directory and row data as database record . . .*’ (emphasis in original)

“However, we note that a description of location information is not the same as displaying location information. Here, claim 1 recites “displaying . . . organization characteristics in conjunction with location information.” While Cadot’s tablespaces may inherently include row addresses, Cadot does not inherently disclose displaying them in conjunction with organization characteristics.” (emphasis added).

First, Applicants do not concede that it is inherent for a game to have a maximum number of players. Second, as instructed by the Board of Patent Appeals and Interferences in *Ex parte* Martin, even if an environment has “a current number of clients connected to the environment and the maximum number of clients allowed to be connected to the environment,” that fact is not

equivalent to "the environment report compris[ing] user count information that indicates the current number of clients connected to the environment and the maximum number of clients allowed to be connected to the environment."

For reasons similar to or somewhat similar to those described above with regard to independent claim 1, independent claims 18, 32, and 51-52 are also patentable.

## V. DEPENDENT CLAIMS

The other claims are dependent from one of the independent claims discussed above, and are therefore believed patentable for at least the same reasons. Since each dependent claim is also deemed to define an additional aspect of the invention, however, the individual reconsideration of the patentability of each on its own merits is respectfully requested.

Similarly, because Applicants maintain that all claims are allowable for at least the reasons presented hereinabove, in the interests of brevity, this response does not comment on each and every comment made by the Examiner in the Office Action. This should not be taken as acquiescence of the substance of those comments, and Applicants reserve the right to address such comments.

## CONCLUSION

In the event the Examiner disagrees with any of statements appearing above with respect to the disclosures in the cited reference, it is respectfully requested that the Examiner specifically indicate those portions of the reference providing the basis for a contrary view.

Please charge any additional fees that may be needed, and credit any overpayment, to our Deposit Account No. 50-0320.

In view of the foregoing amendments and remarks, all of the claims in this application are patentable and Applicants respectfully request early passage to issue of the present application.

Respectfully submitted,

FROMMER LAWRENCE & HAUG LLP  
Attorneys for Applicants

By: 

Paul A. Levy  
Reg. No. 45,748  
(212) 588-0800